

# **EXHIBIT 3**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

3 RAVGEN, INC., ) AU:20-CV-00692-LY  
4 Plaintiff, )  
5 v. ) AUSTIN, TEXAS  
6 NATERA, INC., NSTX, INC., )  
7 Defendants. ) FEBRUARY 28, 2023

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TRANSCRIPT OF SCHEDULING CONFERENCE  
BEFORE THE HONORABLE LEE YEAKEL  
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25 Proceedings recorded by computerized stenography, transcript produced by computer.

14:01:23 1 (Open court)

14:01:23 2 THE COURT: We're here today for a scheduling

14:01:25 3 conference, or conference of some kind, in Cause Number

14:01:26 4 20-CV-692, *Ravgen, Incorporated v. Natera, Incorporated* and

14:01:32 5 others.

14:01:32 6 Let me start with the plaintiff, and tell me who is

14:01:35 7 here, please.

14:01:36 8 MR. DACUS: Good afternoon, Your Honor. Deron Dacus

14:01:39 9 on behalf of the plaintiff, Ravgen. And here with me is

14:01:43 10 Kerri-Ann Limbeek with the Desmarais law firm, and we're ready

14:01:47 11 to proceed, Your Honor.

14:01:47 12 THE COURT: All right. Give my just a minute.

14:01:54 13 There's so many people listed in the caption, I need to find

14:01:57 14 you-all.

14:02:00 15 And for the defendants?

14:02:01 16 MR. HASH: Your Honor, Stephen Hash from McDermott

14:02:04 17 Will & Emery, with Alex Piala, on behalf of Natera. We also

14:02:09 18 have cocounsel Michael Summersgill and Amanda Major from Wilmer

14:02:14 19 Hale. And we're ready to proceed.

14:02:18 20 THE COURT: All right. Give me those names again.

14:02:22 21 You're Mr. Hash, and I got Ms. Major. Who else is here?

14:02:24 22 MR. HASH: Piala, P-i-a-l-a, from McDermott.

14:02:27 23 THE COURT: All right.

14:02:27 24 MR. HASH: And Summersgill, Michael Summersgill.

14:02:28 25 THE COURT: All right. Thank you. All right. I've

14:15:02 1 defense in its contentions. It did not raise that defense  
14:15:05 2 during its interrogatory responses. And this is the first  
14:15:09 3 we're hearing of it from Natera based on a vacated order.

14:15:12 4 And so I don't think that Natera should be allowed to  
14:15:17 5 reopen discovery and motion practice on issues where Natera had  
14:15:22 6 the document in front of it and chose different defenses than  
14:15:26 7 the other defendants in different cases.

14:15:29 8 So we don't want to get into a situation where we're  
14:15:32 9 relitigating things that have already -- that -- you know, the  
14:15:37 10 parties have gone through this case and they've narrowed the  
14:15:40 11 asserted claims and they've narrowed the defenses and they've  
14:15:43 12 narrowed the prior art in preparation for trial. To now allow  
14:15:48 13 Natera to reopen discovery to argue different defenses, when  
14:15:53 14 nothing has changed on the facts and they had the license and  
14:15:56 15 they had all of the documents during discovery, I think would  
14:15:59 16 be very prejudicial and inefficient.

14:16:04 17 And so that -- in addition, after that order  
14:16:08 18 vacating -- after that order was vacated, there's been an  
14:16:13 19 amendment to the license indicating the parties' intent not --  
14:16:16 20 for that license not to apply to the defendants in this case  
14:16:21 21 and others. That makes -- you know, any motion on that is  
14:16:26 22 going to -- or any amendment to the answer to add that defense  
14:16:30 23 is going to be futile anyway.

14:16:33 24 THE COURT: Well, let me just say, if I were to  
14:16:35 25 reopen discovery, that does not mean it reopens discovery and

14:16:40 1 the defendants get to allege different things. Discovery is  
14:16:45 2 separate from pleadings. That does not mean I've reopened  
14:16:49 3 pleadings or allowed an amended pleading just if I reopen  
14:16:54 4 discovery. So just know that these things are maybe all  
14:16:58 5 connected like the boxcars on a railroad train, but it doesn't  
14:17:02 6 mean they all arrive at the station at the same time.

14:17:05 7 MS. LIMBEEK: Right. Thank you, Your Honor. I think  
14:17:07 8 that's our position, too. Is that while we may need to reopen  
14:17:10 9 discovery for a few very narrow categories of documents that  
14:17:14 10 were not available in this case before discovery closed and the  
14:17:18 11 case was stayed, we shouldn't be reopening discovery on  
14:17:23 12 anything that was available before discovery closed and  
14:17:27 13 dispositive motions happened in this case.

14:17:34 14 THE COURT: Go there first. Then you get a chance.

14:17:36 15 MR. SUMMERSGILL: Yes, sir. Thank you, Your Honor.  
14:17:37 16 Just to respond to that, two things. To address the  
14:17:42 17 broader issue, the plaintiffs -- Ravgen are the ones who  
14:17:47 18 approached us that said discovery needed to be reopened,  
14:17:51 19 reopening both fact and expert discovery. Now, they've  
14:17:55 20 characterized it as, you know, very narrow discovery. But  
14:17:58 21 really what it is, is in the IPRs they made an argument that  
14:18:04 22 the claims require a specific type of agent that actually  
14:18:08 23 inhibits lysis.

14:18:09 24 In this case they don't have hard evidence right now  
14:18:17 25 that what is in the blood collection tubes that Natera uses

14:34:58 1 100 percent confident we can cut down the motions under the  
14:35:01 2 Court's direction, and -- and this case will be ready for trial  
14:35:05 3 whenever the Court says it can try us.

14:35:07 4 So if there -- if I have failed to answer anything,  
14:35:11 5 it wasn't by design. I'm happy to do it.

14:35:13 6 THE COURT: You've answered.

14:35:15 7 Let me hear from the defendant.

14:35:17 8 MR. SUMMERSGILL: Thank you, Your Honor.

14:35:18 9 First piece is we think the case ought to remain  
14:35:22 10 stayed because there are IPRs pending where decisions will come  
14:35:26 11 out.

14:35:26 12 THE COURT: Well, no. Let me just stop there. If  
14:35:30 13 I'm going to open it up for some discovery and move along, that  
14:35:36 14 doesn't mean I'm going to open it up for everything for you to  
14:35:39 15 re-plead anything.

14:35:41 16 I can see merit in lifting the stay for you-all to do  
14:35:45 17 what you need to do to resolve some of those motions and get  
14:35:52 18 things moved around, where we can at least look at a trial  
14:35:58 19 setting instead of waiting until we see what this last result  
14:36:02 20 is going to be. And, you know, I would lift the stay, but  
14:36:09 21 then -- if I like what you're going to tell me about what you  
14:36:13 22 would do in the interim, but then tell you all you can do in  
14:36:18 23 the interim is A, B, C, and D until we get there.

14:36:21 24 One of my frustrations with what goes on at the --  
14:36:28 25 you know, the PTO and its various component parts is sometimes